

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0046.01 Bob Lackner x4350

SENATE BILL 18-142

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SENATE SPONSORSHIP

Crowder and Kefalas, Aguilar

HOUSE SPONSORSHIP

Melton and Herod,

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A PILOT PROJECT TO FACILITATE  
102 SUSTAINABLE COMMUNITIES BASED ON AFFORDABLE HOUSING.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

On solely a one-time basis within the state, the bill requires a state district court to waive all statutory requirements specified for the approval of a municipal incorporation that are not otherwise met by a petitioner if the petitioner files a request for such waiver with a state district court in accordance with the bill.

The bill defines "petitioner" to mean a natural person or entity that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

seeks state district court approval of a pilot project in accordance with the bill and defines "pilot project" to mean a one-time project for approval by a state district court of a municipal incorporation to facilitate the creation of a model for a sustainable community with significant affordable housing.

The petitioner commences the process for acquiring a waiver by filing an application with an appropriate state district court. The application must be supported by the formal endorsement in writing of any 2 of the following 3 individuals in office as of the time the application is submitted to the district court:

- ! The governor of the state;
- ! The president of the state senate; or
- ! The speaker of the state house of representatives.

This formal endorsement must include a statement from the applicable elected official on his or her official letterhead as to why he or she believes approval of the pilot project is a model for sustainability and affordable housing while also being in the best interests of the people of the state.

Once a single waiver has been granted by a state district court under the bill, no additional waivers may be granted for any land area in the state under the bill unless the waiver has been approved by the general assembly by bill including the signature of the governor in accordance with all regular legal procedures and additionally by each of the 3 elected officials in accordance with the requirements of the bill.

A petitioner's request for a waiver must be filed with the district court not later than July 31, 2018. Any request for a waiver that is not filed by July 31, 2018, is of no legal force and effect.

If the petitioner satisfies all requirements, the district court is required to enter an order finding that the pilot project meets all of the applicable requirements, issuing the requested waiver, and approving the pilot project that is effective as of the date of the order.

Upon the entry by a district court of an order issuing the requested waiver and approving the pilot project, the pilot project is designated a town and as of that date possesses all of the rights, powers, and duties delegated to or imposed upon the towns of this state as provided by law, including powers relating to land use, zoning, and related matters. The territorial boundaries of the town are coterminous with the land area of the pilot project as specified in the waiver application.

Not less than 90 days after entry of the order, one or more owners of real property located within the territorial boundaries of the town, acting singularly or in combination, as applicable, are required to appoint 5 individuals to serve as the members of a town commission. The commission serves as the governing body of the town, and possesses all of the powers and duties possessed under law by a town council, until such time as the town elects a town council and other elective officers.

The term of office of all such commission members is 4 years; except that the term of office of members of the commission may terminate earlier than 4 years upon the election of the town council and other elective officers at which time the commission ceases to exist. An individual need not be a registered elector of the town in order to accept appointment to the commission but any person serving on the commission must be a resident of the state.

At such time as the number of residents of the town equals or exceeds 150 natural persons, the commission is required to hold an election for the purpose of electing a town council and other elective officers. To the extent practicable, the election must be conducted in accordance with the applicable provisions of existing law. Upon the election of the town council and other elective officers, the town council becomes the governing body of the town and such council members and other elective officers must perform their duties and responsibilities as provided by law.

The bill clarifies that the town possesses the same authority as any other government in the state to cooperate with or enter into an intergovernmental agreement with another government for the provision of any goods or services to assist in the development, management, operation, or administration of the town.

The pilot project opportunity is repealed, effective July 1, 2019.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **add** 31-2-110 as  
3 follows:

4           **31-2-110. Creation of pilot municipality - one-time basis -**  
5 **definitions - repeal.** (1) FOR PURPOSES OF THIS SECTION, UNLESS THE  
6 CONTEXT OTHERWISE REQUIRES:

7           (a) "PETITIONER" MEANS A NATURAL PERSON OR ENTITY THAT  
8 SEEKS STATE DISTRICT COURT APPROVAL OF A PILOT PROJECT IN  
9 ACCORDANCE WITH THIS SECTION.

10           (b) "PILOT PROJECT" MEANS A ONE-TIME PROJECT FOR APPROVAL  
11 BY A STATE DISTRICT COURT OF A MUNICIPAL INCORPORATION TO  
12 FACILITATE THE CREATION OF A MODEL FOR A SUSTAINABLE COMMUNITY  
13 WITH SIGNIFICANT AFFORDABLE HOUSING IN ACCORDANCE WITH THE

1 REQUIREMENTS OF THIS SECTION.

2 (c) "SIGNIFICANT AFFORDABLE HOUSING" MEANS NOT LESS THAN  
3 THREE THOUSAND HOUSING UNITS THAT ARE PRICED FOR RENTAL OR  
4 PURCHASE AT NOT LESS THAN TWENTY-FIVE PERCENT BELOW THE MEDIAN  
5 PRICE FOR HOUSING UNITS IN THE IMMEDIATE MARKET AREA OR THE  
6 COUNTY IN WHICH THE UNITS ARE LOCATED.

7 (d) "SUSTAINABLE COMMUNITY" MEANS A COMMUNITY THAT HAS  
8 BEEN PLANNED TO ACHIEVE THE FOLLOWING GOALS, WITHOUT  
9 LIMITATION: NET ZERO ENERGY USE; NET ZERO WASTE; ON-SITE  
10 WASTEWATER TREATMENT; ON-SITE RECYCLING; A REDUCTION OF AT  
11 LEAST SEVENTY-FIVE PERCENT IN WATER USAGE COMPARED WITH OTHER  
12 COMMUNITIES IN THE IMMEDIATE MARKET AREA OR WITHIN THE COUNTY  
13 IN WHICH THE COMMUNITY IS LOCATED; AN ALL LEED COMMUNITY; AND  
14 UNIVERSAL DESIGN.

15 (e) "UNIVERSAL DESIGN" IS THE DESIGN AND COMPOSITION OF AN  
16 ENVIRONMENT SO THAT IT CAN BE ACCESSED, UNDERSTOOD, AND USED TO  
17 THE GREATEST EXTENT POSSIBLE BY ALL PEOPLE REGARDLESS OF THEIR  
18 AGE, SIZE, ABILITY, OR DISABILITY.

19 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON SOLELY  
20 A ONE-TIME BASIS WITHIN THE STATE, A STATE DISTRICT COURT SHALL  
21 WAIVE ALL REQUIREMENTS SPECIFIED IN THIS PART 1 FOR THE APPROVAL  
22 OF A MUNICIPAL INCORPORATION THAT ARE NOT OTHERWISE MET BY A  
23 PETITIONER IF THE PETITIONER FILES A REQUEST FOR SUCH WAIVER WITH  
24 A STATE DISTRICT COURT IN ACCORDANCE WITH THIS SECTION.

25 (3) (a) THE PETITIONER COMMENCES THE PROCESS FOR ACQUIRING  
26 A WAIVER UNDER THIS SECTION BY FILING AN APPLICATION FOR SUCH  
27 WAIVER WITH A STATE DISTRICT COURT FOR THE STATE JUDICIAL DISTRICT

1 EXERCISING JURISDICTION OVER THE LAND AREA THAT IS THE SUBJECT OF  
2 THE WAIVER REQUEST. THE APPLICATION MUST BE SUPPORTED BY THE  
3 FORMAL ENDORSEMENT IN WRITING OF ANY TWO OF THE FOLLOWING  
4 THREE INDIVIDUALS IN OFFICE AS OF THE TIME THE APPLICATION IS  
5 SUBMITTED TO THE DISTRICT COURT:

6 (I) THE GOVERNOR OF THE STATE;

7 (II) THE PRESIDENT OF THE STATE SENATE; OR

8 (III) THE SPEAKER OF THE STATE HOUSE OF REPRESENTATIVES.

9 (b) THE FORMAL ENDORSEMENT REQUIRED IN SUBSECTION (3)(a)  
10 OF THIS SECTION MUST INCLUDE A STATEMENT FROM THE APPLICABLE  
11 ELECTED OFFICIAL ON HIS OR HER OFFICIAL LETTERHEAD AS TO WHY HE OR  
12 SHE BELIEVES APPROVAL OF THE PILOT PROJECT IS SUSTAINABLE, WILL  
13 PROVIDE SIGNIFICANT AFFORDABLE HOUSING, AND IS IN THE BEST  
14 INTERESTS OF THE PEOPLE OF THE STATE.

15 (c) EACH OF THE INDIVIDUALS SPECIFIED IN SUBSECTION (3)(a) OF  
16 THIS SECTION MAY ONLY GRANT HIS OR HER ENDORSEMENT OF AN  
17 APPLICATION ON ONE SINGLE INSTANCE. ONCE THE INDIVIDUAL HAS MADE  
18 AN ENDORSEMENT, THE ENDORSEMENT MAY NOT BE WITHDRAWN BY THAT  
19 INDIVIDUAL NOR MAY THE INDIVIDUAL EVER PROVIDE ANOTHER  
20 ENDORSEMENT OF ANY OTHER APPLICATION ARISING UNDER THIS SECTION.

21 (4) ONCE A SINGLE WAIVER HAS BEEN GRANTED BY A STATE  
22 DISTRICT COURT UNDER THIS SECTION, NO ADDITIONAL WAIVERS MAY BE  
23 GRANTED FOR ANY LAND AREA IN THE STATE UNDER THIS SECTION UNLESS  
24 THE WAIVER HAS BEEN APPROVED BY THE GENERAL ASSEMBLY BY BILL  
25 INCLUDING THE SIGNATURE OF THE GOVERNOR IN ACCORDANCE WITH ALL  
26 REGULAR LEGAL PROCEDURES AND ADDITIONALLY BY EACH OF THE THREE  
27 ELECTED OFFICIALS IN ACCORDANCE WITH SUBSECTION (3) OF THIS

1 SECTION.

2 (5) A PETITIONER'S REQUEST FOR A WAIVER MUST BE FILED WITH  
3 THE DISTRICT COURT NOT LATER THAN JULY 31, 2018. ANY REQUEST FOR  
4 A WAIVER THAT IS NOT FILED BY JULY 31, 2018, IS OF NO LEGAL FORCE  
5 AND EFFECT.

6 (6) IF THE PETITIONER SATISFIES ALL REQUIREMENTS SPECIFIED IN  
7 THIS SECTION, THE DISTRICT COURT SHALL ENTER AN ORDER FINDING THAT  
8 THE PILOT PROJECT MEETS ALL OF THE REQUIREMENTS SPECIFIED IN THIS  
9 SECTION, ISSUING THE REQUESTED WAIVER, AND APPROVING THE PILOT  
10 PROJECT THAT IS EFFECTIVE AS OF THE DATE OF THE ORDER.

11 (7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

12 (a) UPON THE ENTRY BY A DISTRICT COURT OF AN ORDER ISSUING  
13 THE REQUESTED WAIVER AND APPROVING THE PILOT PROJECT IN  
14 ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION, THE PILOT PROJECT  
15 IS DESIGNATED AS A TOWN PURSUANT TO SECTION 31-1-201 (1)(c) AND AS  
16 OF THAT DATE POSSESSES ALL OF THE RIGHTS, POWERS, AND DUTIES  
17 DELEGATED TO OR IMPOSED UPON THE TOWNS OF THIS STATE AS PROVIDED  
18 BY LAW, INCLUDING WITHOUT LIMITATION ALL RIGHTS, POWERS, AND  
19 DUTIES EXERCISED BY A TOWN WITH RESPECT TO LAND USE, ZONING, AND  
20 RELATED MATTERS WITHIN ITS TERRITORIAL BOUNDARIES. THE  
21 TERRITORIAL BOUNDARIES OF THE TOWN ARE COTERMINOUS WITH THE  
22 LAND AREA OF THE PILOT PROJECT AS SPECIFIED IN THE WAIVER  
23 APPLICATION.

24 (b) NOT LESS THAN NINETY DAYS AFTER ENTRY OF THE ORDER  
25 DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION, ONE OR MORE OWNERS  
26 OF REAL PROPERTY LOCATED WITHIN THE TERRITORIAL BOUNDARIES OF  
27 THE TOWN, ACTING SINGULARLY OR IN COMBINATION, AS APPLICABLE,

1 SHALL APPOINT FIVE INDIVIDUALS TO SERVE AS THE MEMBERS OF A TOWN  
2 COMMISSION. THE COMMISSION SERVES AS THE GOVERNING BODY OF THE  
3 TOWN, AND POSSESSES ALL OF THE POWERS AND DUTIES PROVIDED UNDER  
4 LAW BY A TOWN COUNCIL, UNTIL SUCH TIME AS THE TOWN ELECTS A TOWN  
5 COUNCIL AND OTHER ELECTIVE OFFICERS IN ACCORDANCE WITH  
6 SUBSECTION (7)(c) OF THIS SECTION. THE TERM OF OFFICE OF ALL SUCH  
7 COMMISSION MEMBERS IS FOUR YEARS AND MEMBERS MAY SERVE FOR  
8 ADDITIONAL FOUR YEAR TERMS; EXCEPT THAT THE TENURE IN OFFICE OF  
9 MEMBERS OF THE COMMISSION MAY TERMINATE EARLIER THAN FOUR  
10 YEARS UPON THE ELECTION OF THE TOWN COUNCIL AND OTHER ELECTIVE  
11 OFFICERS IN ACCORDANCE WITH SUBSECTION (7)(c) OF THIS SECTION AT  
12 WHICH TIME THE COMMISSION CEASES TO EXIST. AN INDIVIDUAL NEED NOT  
13 BE A REGISTERED ELECTOR OF THE TOWN IN ORDER TO ACCEPT  
14 APPOINTMENT TO THE COMMISSION BUT ANY PERSON SERVING ON THE  
15 COMMISSION MUST BE A RESIDENT OF THE STATE.

16 (c) AT SUCH TIME AS THE NUMBER OF RESIDENTS OF THE TOWN  
17 EQUALS OR EXCEEDS ONE HUNDRED FIFTY NATURAL PERSONS, THE  
18 COMMISSION SHALL HOLD AN ELECTION FOR THE PURPOSE OF ELECTING A  
19 TOWN COUNCIL AND OTHER ELECTIVE OFFICERS. TO THE EXTENT  
20 PRACTICABLE, THE ELECTION MUST BE CONDUCTED IN ACCORDANCE WITH  
21 THE APPLICABLE PROVISIONS OF THIS TITLE 31, INCLUDING WITHOUT  
22 LIMITATION THIS ARTICLE 2 AND ARTICLES 1, 4, AND 10 OF THIS TITLE 31.  
23 UPON THE ELECTION OF THE TOWN COUNCIL AND OTHER ELECTIVE  
24 OFFICERS, THE TOWN COUNCIL BECOMES THE GOVERNING BODY OF THE  
25 TOWN AND SUCH COUNCIL MEMBERS AND OTHER ELECTIVE OFFICERS  
26 SHALL PERFORM THEIR DUTIES AND RESPONSIBILITIES AS PROVIDED BY  
27 LAW.

1           (d) WHERE A TOWN HAS BEEN DESIGNATED AND A TOWN COUNCIL  
2           AND OTHER ELECTIVE OFFICERS HAVE BEEN ELECTED IN ACCORDANCE  
3           WITH THE REQUIREMENTS OF THIS SECTION, THE FAILURE OF A TOWN TO  
4           OPERATE IN ACCORDANCE WITH APPLICABLE LEGAL REQUIREMENTS  
5           PERTAINING TO THE GOVERNANCE OF TOWNS WILL RESULT IN THE  
6           DISSOLUTION OF THE TOWN AND THE REVERSION OF THE LAND AREA  
7           FORMING THE TOWN BACK TO THE COUNTY IN WHICH THE LAND AREA IS  
8           LOCATED.

9           (8) UPON DESIGNATION OF THE PILOT PROJECT AS A TOWN  
10          PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THE TOWN POSSESSES  
11          THE SAME AUTHORITY AS ANY OTHER GOVERNMENT IN THE STATE TO  
12          COOPERATE WITH OR ENTER INTO A CONTRACT WITH ANY OTHER  
13          GOVERNMENT FOR THE PROVISION OF ANY GOODS OR SERVICES TO ASSIST  
14          IN THE DEVELOPMENT, MANAGEMENT, OPERATION, OR ADMINISTRATION  
15          OF THE TOWN IN ACCORDANCE WITH SECTION 29-1-203.

16          (9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

17          **SECTION 2. Safety clause.** The general assembly hereby finds,  
18          determines, and declares that this act is necessary for the immediate  
19          preservation of the public peace, health, and safety.